

Easterling, Deborah

From: The McMillions <emcmilion3@gmail.com>
Sent: Tuesday, March 17, 2020 1:45 PM
To: PSC_Contact; The McMillions; Nelson, Jeff; Dover, Becky; Grube-Lybarker, Carri; Heather Smith; Rebecca J. Dulin; Samuel Wellborn; Frank R. Ellerbe III
Subject: [External] MOTION TO CARRY OVER
Attachments: Ms Lybarker.docx

Motion to carry over pending Ms.Carri Grube Lybarker, expert consumer affairs opinion.

Please see attached

Ms. Carri Grube Lybarker

While I, Enrique McMilion Jr. complainant in case 2019-331-E , was looking at the SC.PSC website to find the reason for the carry over decision in the previous business meeting, I clicked on the drop down menu named intervenors. I saw your name and came to the realization that you are Director of the SC. Dept. of Consumer Affairs. I have seen your name before on the e-mail lists regarding 2018-379-E, 2019-230-E, & 2019-331-E, as a party of record. In my ignorance, I assumed you were an attorney for either DECLLC, the ORS, or the SC.PSC. The purpose of this letter is to request from your personal and professional opinion regarding the cases above. Being an expert in consumer relations and a public servant of the state of South Carolina, it is my hope that members of the commission will listen to what you have to say, as my words have fallen, and I suspect will continue to fall, on deaf ears. Please review each case entry on the SC.PSC website. Listed below are some, but not all, of the reasons I have requested this from you.

Points:

1). The process in which a complaint by a citizen of South Carolina against DECLLC, adjudicated by the SC.SPC is inherently biased, impartial, and unfair.

a) DECLLC is a multi-billion-dollar monopoly.

b) DECLLC has a team of highly educated, specialized attorneys.

c) The SC.PSC has approved and is in favor of advanced metering infrastructure "AMI" and want digital meters on every home and business in the state of South Carolina. – conflict of interest

d) The SC.PSC is a quasi-judicial body. As a man with only a high school education, ignorant to the legal profession, who cannot afford an attorney, I am expected to represent myself PRO-SE against is a multi-billion-dollar monopoly, a team of highly educated specialized attorneys, on a case to be decided by a commission that is in favor of the very digital meters my complaint is about. Furthermore, this commission seems to enjoy a position of sovereign immunity, free to ignore their own rules (103-300 no rule inconsistent with law, 103-321 no more than 1 search/ reading every 28 days, 103-346 contracts for service available for public viewing, 103-342 reasons for discontinuance of service [requiring contract to consent to is not listed],) and can, and do, infringe on my right to have the amending terms and conditions in writing with full disclosure signed by both parties, with no legal recourse. Simply put its one David vs. three Goliaths.

2) The SC.PSC Commission has already jumped to a determination to vote in favor of a DECLLC motion to dismiss, a motion unripe for lack of discovery (see 20149-331-E letter concerning Ervins statements on the sc.psc website) (see id# 290319 I Enrique McMilion Jr. Complainant/Petitioner in 2019-331-E) in which I respectfully ask for the addition in time to file for a motion in opposition against DECLLC, because we need to move this case to the discovery phase. There are parties who have refused to give me their full names, individuals who have feigned ignorance to the basic principals in contract, as well as individuals who have blatantly and recklessly disregarded my rights, and the rights of the people of South Carolina. Admission statements, depositions, e-mails, phone calls, and correspondence brought to light in discovery will prove the tortuous and bad faith actions by the defendant, actions by default force the commission and other public

servants to violate their oath of office. Counsel for the defense does not want this case to move to the discovery phase because exposing said facts will prove with evidence the tortuous and bad faith actions by the defendant, and the fraud DECLLC has committed on myself, the people of South Carolina, and the commission. Make no mistake it's not about "bites from an apple", it's about righting wrongs, and safeguarding rights.)

During the business meeting: Commission Directive - Agenda Item #6 - Staff Presents for Commission Consideration the Request of Enrique McMilion, Jr. for a Four-Week Extension of Time to File His Return to Duke Energy Carolinas, LLC's Renewed Motion to Dismiss. For this reason, I chose to forego the motion in opposition and wrote this letter and motion to recuse:

To the Commissioners of the South Carolina public service commission. I Enrique McMilion Jr. Complainant/Petitioner in 2019-331-E would like to bring attention regarding commissioner Ervin's statements during the scpsc business meeting on 2/19/2020. Mr. Ervin stated, "Mr. McMilion asserts that his contractual relationship with Duke does not authorize the utility to install a smart meter on his home." This is a misrepresentation of my arguments. Has the commission read the filings in this case? And if so, how is this behavior tolerated? Mr. Ervin stated, "Mr. chairman we need to get this matter concluded." This statement was made before the motion in opposition has been filed. I have been adamant that this case needs to be moved to the discovery phase. With the facts laid bare proving bad faith, and tortious actions by the defendant "DECLLC", and how these actions by default force the commissioners and others to breach their oath of office. If the commission needs to get this matter "concluded", that means they have already jumped to a determination in voting in favor of DECLLC's motion to dismiss. Again, the motion in opposition has yet to be filed. I comprehend why counsel for the defendant does not want this case moved to the discovery phase for reasons previously stated, but the commission wants this case "concluded", hence no discovery phase. How is a reasonable man to believe he is getting a fair and meaningful hearing if the commission itself is misrepresenting my arguments, and jumping to a preconceived conclusion? I am not an attorney, but I recognize bias when I see it. Canons 1 through 3 of the South Carolina Code of Judicial Conduct as adopted by the Court in South Carolina Appellate Court Rule 501 are instructive as to the guidelines for impartiality and integrity for judges to ensure the same occurs in proceedings. Canon 2 explicitly states that a "judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary." Additionally, the comments to South Carolina Judicial Canon 1 state in pertinent part that a "judge must perform judicial duties impartially and fairly. A judge who manifests bias on any basis in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute. A judge must be alert to avoid behavior that may be perceived as prejudicial." While Mr. Ervin was making these statements the rest of the commission sat there stone-faced, not one member of the commission spoke up to point out this judicial error. I Enrique McMilion Jr. Complainant/Petitioner in 2019-331-E hereby make a motion to recuse commissioners: BELSER, ERVIN, HAMILTON, HOWARD, RANDALL, WHITFIELD, and WILLIAMS. And be replaced by an impartial commission who honor their oath of office and restore the public trust. I require this case be held in abeyance, while a fair and impartial group of men and women comprising a new commission is being formed, and the recused commissioners are judicially reviewed. Regards, Enrique McMilion JR.

3) The commission is denying discovery despite these self-evident uncontested facts:

a) A contract does exist between myself and DECLLC, albeit verbal, with the electromechanical analog meter.

b) Contracts should be on file for public viewing as per rule 103-346 and are not. My multiple requests to read these forms of contracts for service have been denied.

c) Defendant DECLLC is changing/amending/modifying the terms and conditions with the introduction of digital meters. Electromechanical analog meters = aggregate information, digital meters = granular information. This one fact alone demonstrates and establishes the terms and conditions are changing/amending/modifying.

d) The ORS, SC.PSC, and DECLLC have repeatedly denied my right as a party to the agreement to be informed of the amending or modifying terms and conditions of the contract, or the terms and conditions of the original contract, demonstrating bad faith and unfair dealing.

e) The SC.PSC has and will continue to allow DECLLC to threaten power shutoff, denying me the essential utility of electricity if I do not consent to the digital meters. I have merely been asking for is to view the terms and conditions of the contract to make an informed decision, and to have it in 4 corners contract form, signed by both parties. The fact that DECLLC & The SC.PSC are holding me over a barrel, forcing my consent is unconscionable, knowing full well there is no other electric service provider available. This is bad faith and unconscionable bargaining power.

f) The false representation of the manual read meter "MRM" "opt out" as a remedy. I provided from DECLLC's own website some of the terms and conditions from this agreement, printed and sent to all parties of record showing it is valid for only one year, after which it can be cancelled by either party with 30 days written notice. If I agree to the terms of that contract DECLLC could cancel and compel me into a digital meter agreement absent disclosure of terms and conditions or be without electricity. I find this to be in bad faith and unfair dealing. Not to mention the fact they still refuse to provide full disclosure to the MRM contract.

g) Bad faith breach of contract: The original contract from its inception in 2013 has not been and is not in dispute. DECLLC by the authority of the SC.PSC intend to breach that contract if I do not consent to undisclosed terms and conditions, and still deny terms and conditions of the original contract.

h) SC.PSC interference in the obligations of contracts: Article 1 sec. 10 clause 1 of the U.S. Constitution and the 14th Amendment of the U.S. Constitution prohibit the interference in the obligations of contracts binding the SC.PSC to federal law. If the SC.PSC compel or enable DECLLC to breach the original contract by their actions, they are subject to liability under article 42 u.s.c section 1983.

i)Ervin statements: commissioner Ervin's statements during the scpsc business meeting on 2/19/2020 video, please note: "concluded" and the misrepresentation of my arguments. These facts lead me to believe the commission has no intention of this case going to the discovery phase, and I am not convinced they have even read the filings in this case.

It is my belief from the current and past dealings with the SC.PSC and its commissioners, that they do not intend to address any of the points listed above. It is my hope they will listen to you.

Regards,

Enrique McMilion Jr.